



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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[REDACTED] MI [REDACTED]

Date Mailed: May 11, 2023
MOAHR Docket No.: 23-000675
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 12, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker. Mohamed Ahmed served as Arabic interpreter.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is an ongoing recipient of MA benefits under the Group 2 Aged, Blind, Disabled (G2S) category with a monthly deductible. The Department determined that Petitioner was approved for MA under the G2S category with a monthly deductible of \$782.
2. On or around January 17, 2023, the Department received medical expenses from Petitioner verifying that he incurred medical expenses in excess of his monthly deductible effective January 12, 2023. (Exhibit A; Exhibit 1)
3. On or around January 31, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice advising him that for the time period of January 1, 2023, through January 11, 2023, he was subject to a \$782 deductible, and for the

time period of January 12, 2023, through January 31, 2023, he was approved for full coverage MA benefits, as his deductible was met. (Exhibit A, pp. 11-14)

4. There was no evidence that the Department activated full coverage MA benefits for any time period other than January 12, 2023, through January 31, 2023.
5. On or around February 3, 2023, Petitioner requested a hearing disputing the Department's actions with respect to his MA benefits. Petitioner disputed his MA eligibility under a deductible based program and asserted that he submitted medical expenses to the Department that were not considered. (Exhibit A; Exhibit 1)

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Department asserted that Petitioner has been approved for MA with a monthly deductible of \$782 since April 2022. The Department representative testified that Petitioner's income exceeded the limit for a full coverage MA program without a monthly deductible.

Petitioner, who has no minor children, is over age [REDACTED] is enrolled in Medicare, and receives RSDI, is eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105 (January 2021), p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2017), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (April 2017), pp. 1-2.

Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p. 2. Petitioner has a MA fiscal group of one. BEM 211 (July 2019), pp. 5-8. Effective April 1, 2022, an MA fiscal group with one member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$1,153, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2022), p. 1.

The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p. 2. The Department presented an SSI Related Medicaid Income Budget to show how the deductible was calculated and the income considered. The Department considered unearned income of ██████ which Petitioner confirmed was correct based on his receipt of gross monthly RSDI or Social Security benefits.

After further review of Department policy and based on the testimony provided at the hearing, because Petitioner's countable income exceeds the net income limit for the Ad-Care program, the Department acted in accordance with Department policy when it determined that Petitioner was ineligible for full coverage MA benefits under the Ad-Care program without a deductible and determined that he would be eligible for MA under the Group 2 Aged Blind Disabled (G2S) program with a monthly deductible.

Additionally, deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (July 2022), p. 10. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105, pp. 1-2; BEM 166, pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one living in ██████ County is \$375 per month. RFT 200 (April 2017), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner's net monthly income is in excess of the \$375, he may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds \$375. BEM 545, p. 1.

As referenced above, the Department properly considered gross unearned income in the amount of ██████. The Department also properly applied a \$20 unearned income exclusion to determine that Petitioner had net income for MA purposes of ██████. Petitioner was not responsible for any monthly insurance premiums and the Department testified that while other expenses may have been submitted, they were not ongoing monthly expenses to be applied as a deduction to the budget. The Deductible Budget also shows a deduction of \$102 which the Department testified consisted of the cost of living adjustment (COLA), as the budget was for the month of January 2023 and this

deduction is based on Petitioner's receipt of RSDI. Petitioner's countable income was determined to be [REDACTED]

Upon review, the Department properly considered Petitioner's unearned income and took into consideration the appropriate deductions to income, based on the evidence presented because Petitioner's countable income of [REDACTED] for MA purposes exceeds the monthly protected income level of \$375 by \$782, the Department properly calculated Petitioner's monthly \$782 MA deductible in accordance with Department policy. Therefore, based on the information relied upon by the Department, the Department properly determined that Petitioner was eligible for MA under the G2S program with a monthly deductible of \$782.

The Department asserted that Petitioner submitted medical expenses from Suburban Eye Care showing that he incurred expenses that were sufficient to meet his monthly deductible effective January 12, 2023. The Department testified that it applied the expenses to the budget as current/old bills, and determined that for January 2023, Petitioner met his monthly deductible and full coverage MA was activated. The Department confirmed that full coverage MA was not activated for any subsequent month, however. In accordance with MSA 20-19, because Petitioner met his MA deductible for January 2023, full coverage MA should be added to Petitioner's MA case for all subsequent months, until the expiration of the public health emergency (PHE). (See MDHHS Medical Services Administration Bulletin MSA 20-19, accessed at https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder1/Folder85/MSA_2019_Final_Bulletin.pdf?rev=79773edf62c443728a916d18fb5aca99&hash=0F216C8CE0B6BED1581965EACA59DF0E). According to the MSA Bulletin 20-19, individuals who have active coverage through a met deductible during the declared health emergency period will continue to have active coverage open until the end of the health emergency. Therefore, full coverage MA should have been activated for Petitioner's case from January 2023, until the end of the public health emergency. Following the expiration of the public health emergency, however, Petitioner will be required to submit medical expenses to verify that he incurred expenses to meet his monthly deductible.

Petitioner asserted that in November 2022 and in January 2023, he submitted medical expenses to be applied to his deductible. Petitioner submitted some of the expenses for review at the hearing. (Exhibit 1). Upon review, some of the documents submitted by Petitioner included statements from Henry Ford Health with amounts due but do not include the date of service, thus, when the expense was incurred is unknown. Additionally, while a statement from associated Retinal Consultants with service states in November 2022 and December 2022 was presented, the patient balance was \$42.52, and thus would not have been sufficient to meet the \$782 deductible for the months of November 2022 and December 2022. Furthermore, Petitioner referenced a bill of \$106 from the collections bureau that he asserted was submitted to the Department on January 17, 2023, and the Department testified had no date of service. Without any additional documentation, Petitioner has failed to establish that he incurred sufficient expenses to meet his monthly deductible for any month other than January 2023.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that Petitioner was eligible for MA under the G2S with a monthly deductible of \$782 but did not act in accordance with Department policy when it failed to activate Petitioner's full coverage MA benefits from January 2023, until the end of the public health emergency.


DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Process Petitioner's medical expenses and apply the allowable expenses to Petitioner's MA deductible for all applicable months;
2. Provide Petitioner with full coverage MA for January 2023, and continuing for all subsequent months until the end of the public health emergency; and
3. Notify Petitioner in writing of its decision.

ZB/ml



Zainab A. Baydoun
Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Electronic Mail:

DHHS
Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228
MDHHS-Wayne-17-hearings@michigan.gov

Interested Parties

BSC4
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Via First Class Mail:

Petitioner

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